

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Fourth Judicial District Court, County of Missoula

| | | |
|------------------------------|---|---------------------|
| STATE OF MONTANA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | CAUSE NO. DC-15-120 |
| -vs- |) | |
| |) | DECISION |
| RICHARD JAMES McDOUGALL JR., |) | |
| |) | |
| Defendant. |) | |

On September 13, 2016, the District Court sentenced the Defendant as follows: Count I: A commitment of six (6) months to the Missoula County Detention Facility, for the offense of Violation of Order of Protection – 2nd Offense, a misdemeanor; Count II: Two (2) years to the Department of Corrections, for the offense of Violation of Order of Protection – 3rd or Subsequent Offense, a felony; Count III: Two (2) years to the Department of Corrections, with one (1) year suspended, for the offense of Violation of Order of Protection – 3rd or Subsequent Offense, a felony; Count IV: Two (2) years to the Department of Corrections, with two (2) years suspended, for the offense of Violation of Order of Protection – 3rd or Subsequent Offense, a felony; Count V: Two (2) years to the Department of Corrections, with two (2) years suspended, for the offense of Violation of Order of Protection – 3rd or Subsequent Offense, a felony; and Count VI: Two (2) years to the Department of Corrections, with two (2) years suspended, for the offense of Violation of Order of Protection – 3rd or Subsequent Offense, a felony. Counts I – VI were ordered to run consecutively to each other. The Court dismissed Counts VII – XIV. The Court granted the Defendant ninety (90) days credit for time served at the rate of \$100.00 credit per day toward the Defendant’s fine. The Court recommended to the Department of Corrections that the Defendant be screened for any and all chemical dependency treatment programs followed by a pre-release program. *[The total sentence: 10 years DOC, 6 months MCDF, with 7 years suspended.]*

On May 5, 2017, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter “the Division”).

The Defendant appeared by Vision Net from the Missoula Probation and Parole Office and was represented by Daylon Martin, third year law student working under the supervision of Brent Getty of the Office of the State Public Defender. The State was represented by Suzy Boylan of the Missoula County Attorney’s Office.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 5th day of May, 2017.

DATED this 31 day of May, 2017.

SENTENCE REVIEW DIVISION

A handwritten signature in blue ink, appearing to read "Brad Newman", written over a horizontal line.

Hon. Brad Newman, Chairperson

A handwritten signature in blue ink, appearing to read "Kathy Seeley", written over a horizontal line.

Hon. Kathy Seeley, Member

A handwritten signature in blue ink, appearing to read "Brenda Gilbert", written over a horizontal line.

Hon. Brenda Gilbert, Member

CERTIFICATE OF MAILING

I, Georgia Lovelady, Judicial Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing DECISION were mailed this 2nd day of June, 2017, to the following:

Clerk of District Court
Missoula County
200 W. Broadway
Missoula, MT 59802

Susan E. Boylan, Esq.
Missoula County Attorney's Office
200 West Broadway
Missoula, MT 59802

Brent Getty
Office of the State Public Defender
502 S. 19th Ave., Ste. 306
Bozeman, MT 59718

Richard James McDougall Jr. #42535
Missoula Correctional Services
2350 Mullan Road
Missoula, MT 59808

Hon. Karen S. Townsend
4th Judicial District
200 W. Broadway
Missoula, MT 59802

Montana State Prison
Records Department
700 Conley Lake Road
Deer Lodge, MT 59722

Board of Pardons and Parole
1002 Hollenbeck Road
Deer Lodge, MT 59722


Georgia Lovelady, Judicial Assistant
SENTENCE REVIEW DIVISION